

HEWLETT-PACKARD COMPANY
IP Administration, Mailstop 20BN
P.O. Box 10301
Palo Alto, California 94303-0890



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PATENT APPLICATION
ATTORNEY DOCKET NO. 10970451-4

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Lawrence N. Taucher

Serial No.: 08/823,823

Examiner: Ali Neyzari

Filing Date: 03/25/97

Group Art Unit: 2752

Title: WRITE PROTECT FOR REWRITABLE COMPACT DISKS AND DIGITAL VIDEO
DISKS

THE ASSISTANT COMMISSIONER OF PATENTS
Washington, D.C. 20231

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REMARKS

A final action in the parent application was mailed 5/3/99. A notice of appeal was mailed on 8/13/99. Subsequently, a European search report was received in a related application. One item in the search report is relevant to this application. The primary purpose of this CPA is to ensure consideration of Japanese Publication Number 09097473 (Shizu). Note that the applicant does not believe that Shizu, published 04/08/97, after the application date of the present application, is legally prior art. However, applicant does want submission of the publication and distinguishing arguments on the record.

Applicant would also like to ensure that the examiner is aware of two related applications. The present application (08/823,823), filed 03/25/97 discloses covering the power calibration area of a disk for write protection. Application number 08/932,849, filed 09/18/97, discloses specific write protect rings and an apparatus for attaching write protection rings to a disk. Application number 09/159,251, filed 09/23/98 discloses further refinements on the write protect rings and attachment system.

Compact disks are single sided. That is, the data is read from only one side. The back, or non-data side, may have a printed or attached label. Compact disks also have an area immediately surrounding a central hole for use by a disk clamping mechanism. Shizu discloses placing a reflective seal, a sector of a ring, in the clamping area, for use as a write-protect indicator. The seal in Shizu is described as follows: "The seal 3 is formed into a sectoral shape having almost the same width as that in the radial direction of the clamp area 2, . . ." It is not clear whether the seal in Shizu is placed on the data side of the disk, or on the opposite side of the disk, but it expressly does not extend beyond the clamp area.

In Shizu, and for write-protect indicators on cartridges, the write-protect device merely provides an indication or signal that writing should not occur, but these indications and signals can be ignored by software. In the present invention, the write protect device physically prevents writing to the disk. The writing process cannot occur when the power calibration area cannot be used. The write protect device in the present invention cannot be defeated by software.

In the final office action, claims 1-11 were rejected in light of prior art disclosed in the specification. the examiner states: "Once again, it is obvious when the power calibration is covered (by any means, such as a ring, since it is a circular area), the laser power calibration becomes impossible, which this can affect the operation of the system such as preventing the disk from rewriting." The examiner's argument is legally inconsistent with the requirements for a *prima facie* case for obviousness. The examiner assumes something (covering the power calibration area) that is not taught or suggested in the prior art. The fact that a feature is necessary for operation does not teach or suggest defeating the feature in a functional system. The invention must be viewed not with the blueprint provided by the inventor, but in the state of the art that existed at the time. The state of the art at the time does not teach or suggest covering the power calibration area. The examiner has failed to establish a *prima facie* case for obviousness.

In the final office action, the examiner makes the following statement: "Covering an area to prevent an operation takes place in that area is just a common practice." Applicant respectfully traverses. The examiner's statement is an unsupported conclusion, with no reference to the prior art. In accordance with 37 C.F.R. 1.104 (d)(2), applicant requests an affidavit or objective references.

Respectfully submitted,



Augustus W. Winfield

Reg. No. 34,046

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Fort Collins, CO 80528-9599
(970) 898-3142